GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Pangi Srinu S/o Chinnabbai R/o Tatimanupalem(V), Anthada Panchayat, Koyyuru (M), Visakhapatnam District, against the Proceedings No. (M)D.Dis.No.396/2011/C5, dated 03.02.2013 of the District Collector, Visakhapatnam - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.79 **Dated: 20.06.2016**

Read the following:

1. Proceedings of the District Collector, Visakhapatnam District, No. (M)D.Dis.No.396/2011/C5, dated 03.02.2013.
2. Appeal Petition filed by Sri Pangi Srinu S/o Chinnabbai R/o Tatimanupalem (V), Anthada Panchayat, Koyyuru (M), Visakhapatnam District before M(TW),No.191/M(TW)/2013, dt. 23.05.2013.
3. Govt., Memo No.6377/CV.2/2013, S.W(CV.2) Department, dated 15.06.2013.
4. From the District Collector, Vishakhapatnam, (M), Rc.No. 4373/2011/C5, dated 27.01.2014.
5. Order of the Hon'ble High Court of A.P., Hyderabad in W.P. No. 9746/2015, dated 16.04.2015.
6. Govt., Memo No.6377/CV.2/2013, S.W(CV.2) Department, dated 23.05.2015.
7. Written arguments filed by the Counsel for the Appellant before the Government on dated 16.06.2015.

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ORDER:

In the reference 1st read above the District Collector, Visakhapatnam has issued orders canceling ST-Konda Dora Caste Certificate obtained from the then Tahsildar, Koyyuru Mandal, Visakhapatnam District on 2001 by Sri Pangi Srinu S/o Chinnabbai, Visakhapatnam District.

2. In the reference 2nd read above, Sri Pangi Srinu S/o Chinnabbai, Visakhapatnam District has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and connected records on the said appeal petition filed by Sri Pangi Srinu S/o Chinnabbai, Visakhapatnam District.

4. Sri Pangi Srinu S/o Chinnabbai, Visakhapatnam District has filed W.P. No. 9746/2015, before the Hon'ble High Court, against the Government for not finalization of the Appeal Petition filed by him before the Government. In the reference 5th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP, in its order dated 16.04.2015 has ordered that the appeal stands posted to 23.05.2015 on which date the appeal will be decided without any further delay and directed to Government to ensure the disposal of the appeal filed by the petitioner by passing necessary orders in accordance with law.

5. Based on the Hon'ble High Court's directions the said Appeal Petition has been posted for hearing on 13.06.2015 the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with

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all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th read above. The Appellant, Counsel for the Appellant were present and argued the case and explained the community status and filed Written Arguments before the Appellate Authority in support of the appellant's community claim in the reference 7th read above.

6. Government after careful examination of the records/ the copies of evidences/academic record/ grounds filed by the appellant / the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam dated 03.02.2013, it is observed that the appellant in his grounds has stated that his natural father i.e. Sri Nooka Raju adopted him to Sri Pangi Chinnabbai, who belongs to ST-Konda Dora community. The appellant has filed written arguments and also school certificates in order to show that he belongs to ST-Konda Dora community. The 1st certificate called record sheet dated 30.06.1994 reveals that he is son of Pakkurthy Nookaraju who belongs to Hindu-Golla Community, 2nd Record Sheet dated 25.06.1996 to show that his name is changed as Pangi Srinu from Pakkurthy Sreenu and he is son of Sri Pangi Chinnabbai of ST-Konda Dora community. However, the so called certificates can't change the caste to which he originally belongs. Further the circular filed by the appellant also cannot come to the rescue of the appellant as the said circular never contemplates regularization of illegal adoptions.

7. Further it is observed that in Circular Memo. No. 10956/CV1/97-2, S.W (CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the adoption rules are as follows:

I. In deciding whether an adoption is valid, the certificate issuing Authority should satisfy himself that all the requirements of law have been complied with. He should also take into account the behavior of the child after adoption whether he physically lives with and is supported by his adoption parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.

II. In respect of the Caste Certificates, in case of adoption children by Scheduled Caste and Scheduled Tribe parents, the powers are delegated to Joint Collectors. The Joint Collectors should exercise greater care in issuing this type of certificate.

III. The Caste Certificates in the above cases shall be issued only for the children below 15 years of age. The adopted children should live for a minimum period of 5 years with the adopted parents for issue of Caste Certificates in the adoption cases.

Therefore the Appellant's said adoption is not valid one. It is clear that as per Circular Memo.No.10956/CV1/97-2, S.W.(CV) Department, dt.16.2.1998, he cannot claim the benefits of ST, even though there is adoption .

8. Further it is also observed that the appellant does not produce any relevant material except his school records which is generated based on declaration given by the parents and the same is proved false. Hence, it can be held that mere school certificates cannot be accepted as reflection of true caste of a person. Basically there is evidence that the father of the appellant belongs to Golla (BC) community. As verified from the written arguments, the appellant has produced two(2) different school record sheets, one is for the year 1994 and another one is for 1996 and as per his first Record Sheet in 1st Class he was admitted by his natural father i.e. Nookaraju on 30.06.1994 and as per his 2nd Record Sheet, it shows that he was again admitted in the 1st Class on 25.06.1996 by his alleged adoption father i.e. Sri Pangi Chinnabbai, who belongs to ST-Konda Dora community, there is 2 years gap between the two Record Sheets, and also on the 2nd school record sheet it was written by the School authority that he obtained bogus Record Sheet. It seems that the appellant was misguiding Government by producing two different Record Sheets. Further it is observed that as per 2nd Record Sheet and his SSC certificate his date of birth is recorded as 01.07.1990 and his so called adoption father admitted him in the school during the year 1996 i.e. before the adoption (he was adopted in the year 2000). This adoption was registered in the year 08.06.2000 and as per his 1st Record Sheet his date of birth is 29.04.1989. It clearly

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shows that he is misguiding the Government by obtaining bogus caste certificate. Hence Government have examined the entire record & material relevant to the instant case and it is decided that there is no infirmity found either in the order of the learned DLSC or the District Collector, Visakhapatnam and the Government is considered view that the appellant obtained caste certificate fraudulently and he belongs to BC-Golla community but not otherwise.

9. Further, the provisions relating to the Hindu Adoptions and Maintenance Act, 1956 [mainly Section 2(2)] are clear that the said Act is not applicable to the Scheduled Tribes within the meaning of Clause 25 of the Article 366 of Constitution, unless the Central Government by Notification otherwise directs. No rules are laid by the Union of India with regard to 'Scheduled Tribes' regarding Section 2(2) of the Hindu Adoptions and Maintenance Act, 1956. The circular order issued by the Government of India vide No.35/1/72-R.U. (SCT.V) is no way helpful to the case of the Appellant as Point 5 of the said Rules speak of adoption to Scheduled Caste only but not Scheduled Tribe. Therefore, the adoption is no adoption in the eye of law and the Government is of considered view that the Appellant obtained caste certificate by playing fraud.

10. Therefore, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri Pangi Srinu S/o Chinnabbai, Visakhapatnam District, does not deserve any interference. Hence, Proceedings of the District Collector, Visakhapatnam issued vide No.(M)D.Dis.No.396/2011/C5, dated 03.02.2013, is hereby upheld and the Appeal Petition filed by Sri Pangi Srinu S/o Chinnabbai,, is hereby dismissed and the Certificate issued by the then Tahsildar, Koyyuru Mandal, Visakhapatnam District deemed to be cancelled.

11. Consequently, the District Collector, Visakhapatnam shall take necessary action in the matter.

12. The records (containing Rc. No.(M)D.Dis.No.396/2011/C5, dated 03.02.2013, pages 01 to 306 cf, pages 1-25 nf) received from District Collector, Visakhapatnam through in the reference 5th read above, are returned herewith in original to District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam (w.e)
(with original records) (BY RPAD)

Sri Pangi Srinu S/o Chinnabbai
R/o Tatimanupalem (V),
Anthada Panchayat, Koyyuru (M),
Visakhapatnam District.

Sri Ramachandra Prasad, Advocate,
Flat No.302, Emerald Arcade, # 2-2-1130/19/D,
Prashant Nagar, New Nallakunta, Hyderabad-500044.

Copy to:
The Director, TCR & TI, A.P., Hyderabad.
The P.S. to Hon'ble Minister(SWE&TWE).
The P.S. to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER